

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**HB 722 - SB 992**

February 16, 2019

**SUMMARY OF BILL:** Exempts judges and chancellors from the professional privilege tax assessed against attorneys, beginning with taxes payable on or after June 1, 2019.

**ESTIMATED FISCAL IMPACT:**

**Decrease State Revenue – Net Impact - \$215,300/FY18-19 and Subsequent Years**

**Increase Local Revenue - \$3,100/FY18-19 and Subsequent Years**

**Assumptions:**

- Pursuant to Tenn. Code Ann. § 67-4-1703(a), occupational privilege tax is a \$400 annual tax on persons engaging in certain occupations in Tennessee as specified in Tenn. Code Ann. § 67-4-1702. This tax is due and payable on June 1 of each year and such payment satisfies the requirement through May 31 of the following year.
- Due to the proposed tax exemption applying with taxes payable on or after June 1, 2019, the first year impacted by this legislation will be FY18-19.
- Pursuant to Tenn. Code Ann. § 67-4-1701, privilege tax collections are required to be deposited to the General Fund.
- According to the Administrative Office of the Court (AOC), there are approximately 185 state judges, consisting of judges from circuit courts, criminal courts, chancery courts, appellate courts and the Tennessee Supreme Court. This total does not include general sessions or municipal court judges.
- According to the AOC's website, there are approximately 372 general sessions or municipal court judges.
- A recurring decrease in state revenue, beginning in FY18-19, of \$222,800 [ $\$400 \times (185 + 372)$ ].
- Pursuant to Tenn. Code Ann. § 67-4-1709, any employer, including any governmental entity, is authorized to remit the occupational privilege tax on behalf of persons subject to the tax who are employed by such employer.
- The AOC currently pays the occupational privilege tax for those licensed as attorneys under its employ; however, not included in this sum are the judges of the circuit courts, criminal courts, chancery courts, appellate courts, and the Tennessee Supreme Court. Thus, these judges have been paying their own professional privilege tax.

- The reason the AOC did not make payments on behalf of such judges was based on the past understanding of what constitutes “compensation” as taken from the Tennessee Constitution, Article VI, § 7.
- Pursuant to the Attorney General Opinion No. 18-27 (June 29, 2018), “compensation” to such judges was ruled to not be limited to a base salary and could include payment of additional benefits, including payment of the professional privilege tax.
- Based on such opinion, the AOC was prepared to provide payment of such tax this coming June, but has not made such payment previously; thus, this legislation will not result in any decrease in state expenditures for the AOC.
- Due to the wording of the aforementioned opinion, it is assumed that local governments have been prohibited from paying the professional privilege tax for the 372 general sessions or municipal court judges across the state; thus, this legislation will not result in any decrease in local government expenditures.
- Fifty percent of tax savings, or \$111,400  $[(\$222,800 \times 50\%)]$ , will be spent in the economy on other sales-taxable goods and services.
- The recurring increase in state sales tax collections is estimated to be \$7,516  $[(\$111,400 \times 7\%) - (\$111,400 \times 7\% \times 3.617\%)]$ .
- The recurring increase in local sales tax collections is estimated to be \$3,067  $[(\$111,400 \times 2.5\%) + (\$111,400 \times 7\% \times 3.617\%)]$ .
- The net recurring decrease in state revenue as a result of this legislation is estimated to be \$215,284  $(\$222,800 - \$7,516)$ .

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

/jdb